

JS 44 (Rev. 09/11)

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Samantha Pawlucy, a minor, by and through her parents, Richard and Kristine Pawlucy

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Walter Zimolung, Esquire and Christopher A. Lins, Esquire
1515 Market Street, Suite 1360, Philadelphia, PA 19102

DEFENDANTS

The School District of Philadelphia and Lynette Gaymon, individually and in her official capacity

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	PERSONAL INJURY	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other
			<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. 1983

Brief description of cause:

Violation of First Amendment Rights, Defamation and False Light

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$
75,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Samantha Pawlucy, a minor, by and through
her parents, Richard and Kristine Pawlucy

v.

CIVIL ACTION

The School District of Philadelphia and
Lynette Gaymon, :

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

12/20/12
Date

WALTER S. Zimolong
Attorney-at-law

[Signature]
Attorney for PLAINTIFF

215-665-0842

Telephone

215-689-3404

FAX Number

wally@sigzim.com

E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 3640 E. Thomas Street, Philadelphia, PA 19134

Address of Defendant: 1450 W. Olney Avenue, Philadelphia, PA 19141

Place of Accident, Incident or Transaction: Charles Carroll High School
2700 E. Auburn Street, Philadelphia, PA 19134
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) Civil Rights - 1st Amendment

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Walter S. Zimolong, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought.

DATE: 12/20/2012

Walter S. Zimolong

Attorney-at-Law

89151

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 12/20/12

Attorney-at-Law

89151

Attorney I.D.#

Samantha Pawlucy seeks permanent injunctive relief to vindicate her First-Amendment right to wear a Romney-Ryan t-shirt without fear of retribution, compensatory damages, attorneys fees and costs.

Parties, Jurisdiction, and Venue

1. Plaintiff, Samantha Pawlucy (“Samantha”) is a sixteen year-old 10th grade student formerly at Charles Carroll High School (the “High School”) in Philadelphia, Pennsylvania. Pawlucy lives with her family in Philadelphia and is represented by her father and mother, Richard and Kristine Pawlucy.

2. Defendant, the School District of Philadelphia (the “School District”), is a political subdivision of the Commonwealth of Pennsylvania with offices located at 1450 West Olney Avenue, Philadelphia, PA 19141.

3. Lynette Gaymon (“Gaymon”) is a geometry teacher at the High School and an employee of the School District. Gaymon lives in Philadelphia. As a teacher, Gaymon possesses full and final authority to dictate student behavior in her classroom and, at all relevant times, acted in a supervisory capacity over the students in her classroom, including Samantha. This suit is brought against her in her individual and official capacities.

4. This action seeks damages for rights protected by the First and Fourteenth Amendments to the United States Constitution and is brought under 42 U.S.C. § 1983.

5. This Court has jurisdiction pursuant to 28 U.S.C §§ 1331(a) and 1343(1), (3), and (4).

6. Venue is proper pursuant to 28 U.S.C. § 1391(a)(2) because a substantial portion of the events or omissions giving rise to the action occurred within this judicial district and the School District and Gaymon are subject to personal jurisdiction in this judicial district.

Facts

7. On Friday, September, 28, 2012, the High School held a uniform free “dress down” day whereby students were permitted to wear t-shirts, in lieu of collared shirts required by the High School’s uniform policy.

8. That day Samantha wore a pink “Romney-Ryan” t-shirt to the High School which bore the official campaign logo of 2012 Republican Presidential candidate Mitt Romney and his running mate, Congressman Paul Ryan (the “Romney-Ryan T-Shirt”).

9. Beneath the official logo of the Romney-Ryan campaign, the text read “America’s Comeback Team – MittRomney.com”

10. When Pawlucy entered her geometry class, Gaymon, the geometry class teacher, confronted her and told her to “get out of the classroom” because of the Romney-Ryan T-Shirt Samantha was wearing.

11. Gaymon told Samantha and the other students in the class that wearing the Romney-Ryan T-Shirt was like wearing a “KKK shirt” and that the High School was a “Democratic” school, which implied that the High School only supported and tolerated speech favorable to the Democratic party and Democratic political candidates.

12. When Samantha refused to leave the classroom, Gaymon then called in a non-teaching assistant who demanded that Samantha, a female and a minor, remove the Romney-Ryan T-Shirt in front of the classroom of approximately 20 students.

13. When Samantha refused to remove the Romney-Ryan T-Shirt, the non-teaching assistant, who is also a School District employee, attempted to draw a large “X” through the “Romney-Ryan” logo with a large red marker.

14. Samantha had to physically stop this non-teaching assistant from drawing the large X through the logo.

15. Samantha's parents reported Gaymon's actions to the High School principal, Joyce Hoag.

16. When Samantha returned to class on Monday, October 1, 2012, Gaymon continued to ridicule Samantha because she had exercised her constitutionally protected First Amendment right by wearing the Romney-Ryan T-Shirt to her classroom.

17. In fact, Gaymon told the students in the geometry class that she could not be a fun teacher anymore because a student got her in trouble.

18. Afterward, Samantha was verbally harassed and threatened with physical violence by fellow students at the High School because she exercised her constitutionally protected First Amendment right.

19. The School District admits that Samantha was exercising her constitutionally protected First-Amendment right to free speech by wearing the Romney-Ryan T-Shirt to the High School on the dress down day.

20. At no time was there any disruption of class or school operations because of Samantha's actions.

21. In fact, Samantha wore the Romney-Ryan T-Shirt at the High School the entire day without incident, until she entered Gaymon's geometry class, which was her next to the last scheduled class period of the day.

22. Any disruptions were caused by Gaymon and other School District employees.

23. At no time did Samantha make any inappropriate, rude, or insulting remarks to anyone.

24. Because of the incident and the repeated threats of violence, Samantha feared for her safety in returning to the High School.

25. Samantha has suffered embarrassment, emotional distress, and mental anguish.

26. The School District's refusal or inability to assure Samantha's safety and to permit her to be continually embarrassed, ridiculed, and subject to emotional distress chills speech that is protected by the First Amendment.

27. Gaymon's punishment of Samantha amounts to retaliation for constitutionally protected activity.

28. As a result of the lack of safety and the embarrassment, emotional distress, and mental anguish the School District caused, Samantha was unable to return to the High School.

COUNT I
Violation of First Amendment Rights

29. Samantha incorporates by reference the preceding paragraphs in the complaint.

30. The School District's *de facto* prohibition on students wearing t-shirts advocating the candidacy of Mitt Romney for President and his running mate Paul Ryan for Vice President or Republican candidates for office violated Samantha's free speech rights under the First Amendment to the United States Constitution, as applied to the States by the Fourteenth Amendment, and 42 U.S.C. § 1983 because there is no reason to believe that the t-shirts or expression of the viewpoints of Mitt Romney; Paul Ryan or viewpoints held by the Republican Party in general will cause a material and substantial disruption to the school day or otherwise fall into one of the narrow categories of student speech that can be regulated by the School District.

31. Gaymon's actions toward Pawlucy were an unconstitutional retaliation against Samantha for protected speech, and, therefore violates Samantha's rights under the First

Amendment to the United States Constitution, as applied to the States by the Fourteenth Amendment, and 42 U.S.C. § 1983.

32. Gaymon was acting in her official capacity when she told Samantha to leave the classroom, to remove the Romney-Ryan T-Shirt, subjected her to verbal harassment, accused her of racism, and stated that the School District only tolerated viewpoints favorable or supportive of the Democratic party.

WHEREFORE, Samantha Pawlucy, through her parents, Richard and Kristine Pawlucy, respectfully requests that this Court award judgment in her favor and against Defendants as follows:

(a) Declare that the School District's *de facto* ban on Romney Ryan t-shirts violates Samantha Pawlucy's rights under the First and Fourteenth Amendments to the United States Constitution;

(b) Declare that the Gaymon's actions towards Samantha Pawlucy for wearing the Romney Ryan T-Shirt violated Samantha Pawlucy's rights under the First and Fourteenth Amendments to the United State Constitution;

(c) Enjoin Defendants from any continuing punishment or sanction against Samantha Pawlucy on account of her constitutionally protected speech;

(d) Award Samantha Pawlucy compensatory damages;

(e) Award Samantha Pawlucy attorneys' fees and costs pursuant to 42 U.S.C. § 1988;

and

(f) Award any such other relief that is proper and just.

COUNT II
Defamation

33. Samantha incorporates by reference the preceding paragraphs in the complaint.

34. Gaymon's statements, assertions, and implications that Samantha was a racist and Klu Klux Klan sympathizer were false, defamatory, of and about Samantha and widely disseminated to the public.

35. As a result, Samantha has suffered damages.

WHEREFORE, Samantha Pawlucy, through her parents, Richard and Kristine Pawlucy, respectfully requests that this Court award judgment in their favor and against Defendants for an amount in excess of \$75,000, together with attorneys' fees, costs, interest, and punitive damages.

COUNT III
False Light

36. Samantha incorporates by reference the preceding paragraphs in the complaint.


37. Gaymon's statements, assertions, and implications that Samantha was a racist and Klu Klux Klan sympathizer cast Samantha in a false light.

38. As a result, Samantha has suffered damages.

WHEREFORE, Samantha Pawlucy, through her parents, Richard and Kristine Pawlucy, respectfully requests that this Court award judgment in their favor and against Defendants for an amount in excess of \$75,000, together with attorneys' fees, costs, interest, and punitive damages.

SIGMAN & ZIMOLONG, LLC.

Date: 12/20/12

BY: 
Walter S. Zimolong, Esquire
wally@sigzim.com
Christopher A. Lins, Esquire
Chris@sigzim.com
1515 Market Street, Suite 1360
Philadelphia, PA 19102
Tele: 215-665-0842/Fax: 215-689-3403
Attorneys for Plaintiff